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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,245	01/08/2004	Peter J. Fellingham	86745WRZ	6717

7590 10/19/2006  
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EXAMINER

CHOI, HAN S

ART UNIT PAPER NUMBER

2853

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/753,245	<b>Applicant(s)</b> FELLINGHAM ET AL.	
	<b>Examiner</b> Han S. Choi	<b>Art Unit</b> 2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) 1, 16, 19, 20 and 24 is/are rejected.
- 7) ☒ Claim(s) 2-15, 17, 18 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Terminal Disclaimer*

Terminal Disclaimer filed on 8/24/06 is disapproved.

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 and 16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, 8, 9, 12, and 16 of copending Application No. 10/753244 in view of Myers et al. (US Pat. 6,463,674).

The copending application contains the limitations of the pending application claims 1 and 16 except for the plenum, the gas source, the gas flow guide attached to the plenum to direct gas flow at least partially toward the heated surface of the support,

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and the temperature of the gas flow being cooler than the temperature of the heated surface.

Meyers et al. teaches the remaining elements. Meyers et al. teaches a plenum [115] in [Col. 8, Line 52], a gas source [116] in [Col. 4, Lines 5-7] shown in Fig. 2, a gas flow guide [114] attached to the plenum [115] to direct gas flow at least partially toward a heated surface [40] of the support [130] in [Col. 5, Lines 31-43] shown in Fig. 2, and the temperature of the gas flow being cooler than the temperature of the heated surface [40] (both the gas flow and the heated surface have temperatures. The ambient temperature of the airflow that is initially blown by the fan is cooler than the temperature of the heated surface (the initially blown air flow by the fan becomes warmer as it passes through the heated resistor, therefore heating the surface)) shown in Fig. 2.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the teachings of Meyers et al. with the drying system of the copending application for the purpose of drying ink in a rapid continuous manner equal to the printing rate so that no subsequent drying period is needed in [Col. 2, Lines 16-22].

This is a provisional obviousness-type double patenting rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19, 20, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyers et al. (US Pat. 6,463,674).

Referring to claim 19:

- a plenum [115] in [Col. 8, Line 52]
- a gas source [116] in fluid communication with the plenum [115] in [Col. 4, Lines 5-7] shown in Fig. 2.
- a gas flow guide [119] attached to the plenum [115] operable to direct gas flow provided by the gas source [116] shown in Fig. 2.
- a support [130] having a surface in [Col. 4, Lines 16-18], at least a portion of the surface [40] being heated in Fig. 2, wherein the gas flow guide [119] is positioned to direct gas flow at least partially toward the heated surface [40] of the support [130] shown in Fig. 2, the gas flow guide [119] including a fin [114] shown in Fig. 2.

Referring to claim 20:

- the plenum [115] having a surface, wherein the fin [114] is positioned to create an angle relative to the surface of the plenum [115] in [Col. 6, Lines 48-52] shown in Fig. 2.

Referring to claim 24:

- a plenum [115] in [Col. 8, Line 52]
- a gas source [116] in fluid communication with the plenum [115] in [Col. 4, Lines 5-7] shown in Fig. 2.

- a gas flow guide [119] attached to the plenum [115] operable to direct gas flow provided by the gas source [116] shown in Fig. 2.
- a support [130] having a surface in [Col. 4, Lines 16-18], at least a portion of the surface [40] being heated shown in Fig. 2, the heated surface [40] having an origin, wherein the gas flow guide [119] is positioned to direct gas flow at least partially toward the heated surface [40] of the support [130] shown in Fig. 2, the gas flow guide [119] including a plurality of fins [112 and 114] that direct gas toward the heated surface [40] at a location spaced apart from the origin of the heated surface [40] in [Col. 8, Lines 51-52] shown in Fig. 2.

#### ***Allowable Subject Matter***

5. Claims 2-15, 17, 18, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 21-23 are allowed.

#### ***Response to Arguments***

7. Applicant's arguments filed 8/24/06 have been fully considered but they are not persuasive. The term "fin" as supplied by the applicant on page 7 of the applicant's remarks is consistent with the air impingement plates [112 and 114] taught by Meyers et al. (see rejection above).

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Han S. Choi whose telephone number is (571) 272-8350. The examiner can normally be reached on Monday - Friday, 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HSC  
10/11/06



STEPHEN MEIER  
SUPERVISORY PATENT EXAMINER